

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS

DICK VAN DUJIN,

Plaintiff,

- against -

HOG RADIO INC.,

Defendant.

Docket No. 5:19-cv-5223-PKH

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Dick Van Dujin (“Dujin” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Hog Radio Inc. (“Hog Radio” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of copyrighted photographs of a squirrel smelling a flower, owned and registered by Dujin, a professional photographer. Accordingly, Dujin seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in Arkansas.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

## **PARTIES**

5. Dujin is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 32f Binnenweg, Noordwijk, Zuid-Holland 2202 GP Netherlands.

6. Upon information and belief, Hog Radio is a domestic business corporation with a place of business at 2704 American Street, Springdale, AR 72764. Upon information and belief, Hog Radio is registered with the Arkansas Secretary of State to do business in Arkansas. At all times material, hereto, Hog Radio has owned and operated a website at the URL: [www.Lite1065.com](http://www.Lite1065.com) (the “Website”).

## **STATEMENT OF FACTS**

### **A. Background and Plaintiff’s Ownership of the Photographs**

7. Dujin photographed a squirrel smelling a flower (the “Photographs”). A true and correct copy of the Photographs is attached hereto as Exhibit A.

8. Dujin is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

9. The Photographs were registered with the United States Copyright Office and were given registration number VA 2-178-086.

### **B. Defendant’s Infringing Activities**

10. On September 12, 2019, Hog Radio ran an article on the Website titled *Take time to stop & smell the flowers!* See URL: <https://www.lite1065.com/2019/09/12/take-time-to-stop-smell-the-flowers/>. The article featured the Photographs. A screenshot of the Photographs on the Website is attached hereto as Exhibit B.

11. Hog Radio did not license the Photographs from Plaintiff for its article, nor did Hog Radio have Plaintiff's permission or consent to publish the Photographs on its Website.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)**  
**(17 U.S.C. §§ 106, 501)**

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Hog Radio infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Website. Hog Radio is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

17. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photographs, pursuant to 17 U.S.C. § 504(c).

18. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Hog Radio be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
December 7, 2019

LIEBOWITZ LAW FIRM, PLLC

By: /s/Richard Liebowitz  
Richard P. Liebowitz, Esq.  
11 Sunrise Plaza, Suite 305  
Valley Stream, New York 11580

Tel: (516) 233-1660  
RL@LiebowitzLawFirm.com

*Attorneys for Plaintiff Dick Van Dujin*